



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2016-0453; FRL-9951-86-Region 7]

State of Iowa; Approval and Promulgation of the Title V

Operating Permits Program, the State Implementation Plan, and

112(1) Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Iowa Title V Operating Permits Program, the State Implementation Plan (SIP), and the 112(1) plan. The submission revises the Title V Operating Permits Program to include a new chapter to address fees for services by the air quality program. Administrative revisions made with this rulemaking to the SIP and 112(1) plan are associated with the new chapter.

DATES: This direct final rule will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, without further notice, unless EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2016-0453, to <http://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7039, or by email at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to the EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. What Part 70 Revision is EPA Approving?
- III. What Part 52 Revision is EPA Approving?
- IV. Have the Requirements for Approval of a SIP Revision Been Met?
- V. What Action is EPA taking?

I. What is Being Addressed in this Document?

This direct final action approves revisions to the Iowa Title V Operating Permits Program, the State Implementation Plan (SIP), and the 112(1) plan. The submission revises the Title V Operating Permits Program to include a new chapter to address fees for services by the air quality program. Administrative revisions made with this rulemaking to the SIP and 112(1) plan are associated with the new chapter.

Additional information for this rulemaking can be found in the Technical Support Document located in this docket.

II. What Part 70 Revision is EPA Approving?

The State of Iowa implements an operating permits program applicable to certain sources of air pollution in the state. One EPA requirement for a Title V program is that the permitting state must establish a fee structure sufficient to cover the costs of the program (40 CFR 70.9(b)). Due to decreased emissions, and therefore, decreased Title V emission fees, Iowa analyzed program costs and determined that a new fee structure was necessary. The State increased the fixed dollar amount of \$56 per ton to \$70 per ton as the maximum Title V Operating

Permit fee established on the first 4,000 tons of actual emissions for each regulated pollutant emitted from a source subject to the Title V operating permit program. The state determined the fee cap in order to accommodate greater flexibility in setting future Title V fees by estimating program expenses associated with projected actual emissions for fiscal year 2017. The submission package demonstrated compliance with 40 CFR 70.9(c), Fee Demonstration, and 40 CFR 70.9(d), Use of Required Fee Revenue.

The new fee structure prompted the State of Iowa to add a new Chapter to the Iowa Administrative Code (IAC), 567-IAC Chapter 30, "Fees".¹

Revisions with regard to fees in the Title V Operating Permits Program in 567-IAC Chapter 22, makes reference to 567-IAC Chapter 30, "Fees" in the following rules:

- 22.100 "Definitions for Title V Permits";
- 22.101 "Applicability of Title V Operating Permit Requirements";
- 22.103 "Insignificant Activities";
- 22.105 "Title V Permit Applications";

¹ Iowa has requested approval of 567-IAC Subrule 30.4(2), "Payment of Title V annual emission fee," as part of its Part 70 Operating Permits program. The remainder of Chapter 30 has not been submitted to EPA for approval.

- 22.106 "Title V Permit Fees";
- 22.108 "Permit Content".

Subrule 30.4(2), "Payment of Title V annual emission fee," was added to Iowa's Title V Operating Program, and addresses fees required, documentation due dates, Phase I acid rain sources, exempted stationary sources and insignificant activities.

Details of Iowa's Title V Operating Program revisions can be found in the Technical Support Document located in this docket.

III. What Part 52 Revision is EPA Approving?

As previously stated, the new chapter in the Iowa Administrative Code that addresses the revised fee structure initiated administrative revisions to the Iowa State Implementation Plan (SIP) and 112(1) Plan.

Revisions in the SIP amends the following rules to make reference to 567-IAC Chapter 30, "Fees" as follows:

- Chapter 20 - Scope of Title - Definitions - Forms - Rules of Practice;
- Chapter 22 - Controlling Pollution;
- Chapter 31 - Nonattainment Areas;

- Chapter 33 - Special Regulations and Construction Permit Requirements for Major Stationary Sources - Prevention of Significant Deterioration (PSD) of Air Quality.

The state's 112(1) plan is revised to include, Chapter 22, subrule 22.8(1) that applies to permit-by-rule for spray booths.

Details of Iowa's SIP and 112(1) revisions can be found in the Technical Support Document located in this docket.

IV. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

V. What Action is EPA Taking?

EPA is approving the request to amend the Iowa Title V Operating Permits Program, the State Implementation Plan and the 112(1) plan. As noted previously in this document, the revision is consistent with applicable EPA requirements. The revision

meets the requirements of the CAA, and implementing regulations. This revision is consistent with applicable EPA requirements in Title V of the CAA, 40 CFR part 70, and 40 CFR part 52.

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

VI. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the EPA-Approved Iowa Regulations described in the direct final amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.² EPA has made, and will continue to make, these documents generally

² 62 FR 27968 (May 22, 1997).

available electronically through www.regulations.gov and at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VII. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and

will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 24, 2016.

Mark Hague,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 70 as set forth below:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q-Iowa

2. In §52.820, the table in paragraph (c) is amended by revising the entries "567-20.1", "567-22.1", "567-22.4", "567-22.5", "567-22.8", "567-22.10", "567-31.1", and "567-33.1" to read as follows:

§52.820 Identification of plan.

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(c) * * *

EPA-Approved Iowa Regulations

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
Chapter 20-Scope of Title-Definitions-Forms-Rules of Practice				
567-20.1	Scope of Title	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	This rule is a non-substantive description of the Chapters contained in the Iowa rules. EPA has not approved all of the Chapters to which this rule refers.

Iowa citation	Title	State effective date	EPA approval date	Explanation
* * * * *				
Chapter 22-Controlling Pollution				
567-22.1	Permits Required for New or Existing Stationary Sources	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
* * * *	* * *			
567-22.4	Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Unclassified (PSD)	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
567-22.5	Special Requirements for Nonattainment Areas	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
567-22.8	Permit by Rule	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
* * * *	* * *			
567-	Permitting	3/15/16	[Insert date	None

Iowa citation	Title	State effective date	EPA approval date	Explanation
22.10	Requirements for Country Grain Elevators, Country Grain Terminal Elevators, Grain Terminal Elevators and Feed Mill Equipment		of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 31-Nonattainment Areas				
567-31.1	Permit Requirements Relating to Nonattainment Areas	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
* * * * *				
Chapter 33-Special Regulations and Construction Permit Requirements for Major Stationary Sources-Prevention of Significant Deterioration (PSD) of Air Quality				
567-33.1	Purpose	3/15/16	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	None
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PART 70-STATE OPERATING PERMIT PROGRAMS

3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Appendix A to part 70 is amended by adding paragraph (q) under the heading "Iowa" to read as follows:

**Appendix A to Part 70-Approval Status of State and Local
Operating Permits Programs**

* * * * *

Iowa

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(q) The Iowa Department of Natural Resources submitted for program approval a revision to rules 567-22.100, 567-22.101, 567-22.103, 567-22.105, 567-22.106, 567-22.108, and added 567-30.4(2) on March 31, 2016. The State effective date is March 15, 2016. This revision to the Iowa program is approved effective [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

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[FR Doc. 2016-21469 Filed: 9/8/2016 8:45 am; Publication Date: 9/9/2016]